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AN ACT  
RELATING TO TAXATION; PROVIDING FOR AN INCOME TAX OR  
CORPORATE INCOME TAX CREDIT FOR CERTAIN FILM PRODUCTION  
EXPENDITURES MADE IN NEW MEXICO; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. NEW MEXICO FILMMAKER TAX CREDIT.--

A. The tax credit created by this section may be referred to as the "New Mexico filmmaker tax credit". An eligible film production company may apply for, and the taxation and revenue department may allow, a tax credit in an amount equal to five percent of direct production expenditures:

- (1) that are made in New Mexico;
- (2) that are subject to taxation by the state of New Mexico;
- (3) of which sixty percent of the below-the-line crew payroll are residents of New Mexico;
- (4) are made by residents of New Mexico for the purposes of this section, as defined in Subsection G of this section;
- (5) on equipment, goods, services, vehicles or other direct production expenditures provided by individuals or companies paying gross receipts tax in New Mexico for a minimum of two years;

1                   (6) on rental equipment if it is domiciled  
2 in New Mexico for a minimum of one hundred eighty-three days  
3 per year as defined by the New Mexico film division of the  
4 economic development department; and

5                   (7) that are made for the purposes of  
6 producing a television series.

7                   B. The New Mexico filmmaker tax credit shall not  
8 be claimed with respect to expenditures for which the film  
9 production company claiming the credit has delivered a  
10 nontaxable transaction certificate pursuant to Section 7-9-86  
11 NMSA 1978.

12                   C. A long-form narrative film production for which  
13 the New Mexico filmmaker tax credit is claimed shall contain  
14 an acknowledgment that the production was filmed in New  
15 Mexico.

16                   D. To be eligible for the New Mexico filmmaker tax  
17 credit, a film production company shall submit to the New  
18 Mexico film division of the economic development department  
19 information required by the division to demonstrate  
20 conformity with the requirements of this section. The  
21 division shall determine the eligibility of the company and  
22 shall report this information to the taxation and revenue  
23 department in a manner and at times the economic development  
24 department and the taxation and revenue department shall  
25 agree upon.

1           E. To receive a New Mexico filmmaker tax credit, a  
2 film production company shall apply to the taxation and  
3 revenue department on forms and in the manner the department  
4 may prescribe. The application shall include a certification  
5 in the amount of direct production expenditures made in  
6 accordance with this section with respect to the film  
7 production for which the film production company is seeking  
8 the New Mexico filmmaker tax credit. If the requirements of  
9 this section have been complied with, the taxation and  
10 revenue department shall approve the New Mexico filmmaker tax  
11 credit and issue a document granting the credit.

12           F. The film production company may apply for all  
13 or a portion of the New Mexico filmmaker tax credit granted  
14 against personal income tax liability or corporate income tax  
15 liability or any tax liability of a limited liability  
16 company. If the amount of the New Mexico filmmaker tax  
17 credit claimed exceeds the film production company's tax  
18 liability for the taxable year in which the credit is being  
19 claimed, the excess shall be refunded.

20           G. For the purposes of this section:

21                 (1) "direct production expenditure" means an  
22 expenditure used in the production of a film for:

23                         (a) the cost of a story or scenario;

24                         (b) wages or salaries for talent,

25 management or labor paid to a resident of New Mexico;

- 1 (c) the cost of set construction and  
2 operations, wardrobe, accessories and related services;
- 3 (d) the cost of photography, sound  
4 synchronization, lighting and related services;
- 5 (e) the cost of editing and related  
6 services;
- 7 (f) rental of facilities and equipment;
- 8 (g) leasing of a vehicle;
- 9 (h) the cost of food or lodging;
- 10 (i) travel costs limited to airfare  
11 paid to a travel agency or travel company with its primary  
12 place of business in New Mexico;
- 13 (j) the cost of insurance and bonding  
14 paid to an insurance company or agency with its primary place  
15 of business in New Mexico; and
- 16 (k) other direct costs of producing the  
17 film;

18 (2) "film" means a single media or  
19 multimedia program, including a national advertising message,  
20 that is fixed on film, videotape, computer disc, laser disc  
21 or other similar delivery medium, that can be viewed or  
22 reproduced and that is:

- 23 (a) exhibited in a theater;
- 24 (b) intended for exhibition by a  
25 television station, network or other means;

1 (c) intended for the home viewing  
2 market; or

3 (d) publicly viewed in any other  
4 medium;

5 (3) "film production company" means a  
6 company or limited liability company or any entity that  
7 produces a film for exhibition in theaters, on television or  
8 elsewhere;

9 (4) "New Mexico resident" means a person  
10 whose primary residence has been in the state of New Mexico  
11 for the previous two years as defined by the New Mexico film  
12 division of the economic development department in  
13 consultation with the taxation and revenue department and as  
14 evidenced by a signed residency affidavit;

15 (5) "New Mexico vehicle" means a vehicle  
16 originally titled in New Mexico or continuously titled in New  
17 Mexico for a minimum of two years;

18 (6) "New Mexico vendor" means a vendor who  
19 demonstrates significant ownership interest in New Mexico  
20 domiciled equipment, as defined by the New Mexico film  
21 division of the economic development department, provided for  
22 lease to production companies in their New Mexico operation;  
23 and

24 (7) "television series" means one or more  
25 productions that may be exhibited by a television station or

1 network.

2 H. By October 15, 2005 and by October 15 of each  
3 year thereafter, the New Mexico film division of the economic  
4 development department and the taxation and revenue  
5 department shall provide a written report to the legislative  
6 finance committee that reviews and assesses the impacts of  
7 the New Mexico filmmaker tax credit.

8 Section 2. DELAYED REPEAL.--Section 1 of this act is  
9 repealed effective January 1, 2009.

10 Section 3. APPLICABILITY.--The provisions of this act  
11 apply to taxable years beginning on or after January 1, 2005.

12 Section 4. EMERGENCY.--It is necessary for the public  
13 peace, health and safety that this act take effect  
14 immediately.

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